

Montana State Constitution

Article 10. Education and Public Lands

Section 1. Educational goals and duties. The legislature shall provide a basic system of free quality public elementary and secondary schools.

The legislature has NO constitutional obligation to help fund nonpublic schools.

The legislature has an absolute constitutional obligation to fund, at least in part, public schools.

In so far as HB 397 helps fund nonpublic schools, it inevitably diverts revenue away from public schools which the constitution - and several Supreme Court decisions affirm - requires it fund.

Article 10. Education and Public Lands

Section 6. Aid prohibited to sectarian schools.

(1) The legislature, counties, cities, towns, school districts, and public corporations shall not make any direct or indirect appropriation or payment from any public fund or monies, or any grant of lands or other property for any sectarian purpose or to aid any church, school, academy, seminary, college, university, or other literary or scientific institution, controlled in whole or in part by any church, sect, or denomination.

HB 397 creates a "refundable" tax credit that is in fact a direct appropriation or tax expenditure. Strike "refundable" and the tax credit is an indirect appropriation or tax expenditure.

Size of the credit does NOT matter.

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[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

Constitution of Montana -- Article X -- EDUCATION AND PUBLIC LANDS

Section 1. Educational goals and duties. (1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

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[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

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(2) This section shall not apply to funds from federal sources provided to the state for the express purpose of distribution to non-public education.

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